IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

LPANo. 352/2006 in WP No.2673/2006
Smt. Taibai w/o Tulshiram Damle Vs. The Additional Commissioner, Amravati Divn. Amravati and others.

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Mr. Gordey, Adv. for the appellant.
Mrs. Joshi, AGP for respondent nos. 1 and 2.
Mr. K.R. Lambat, Adv. for respondent no.4.

CORAM : A.P. LAVANDE & R.V. MORE, JJ.
DATED :19/07/2007

The appellant takes exception to the judgment and order dated 7/12/2006 passed by learned Single Judge in Writ Petition 2673/2006 whereby the petitioner's writ petition came to be admitted, however, interim relief granted earlier was not continued.

The brief facts giving rise to the present appeal are as under :-

The election of Gram Panchayat Kasbe Gawhan was declared on 16.2.2005. The last date for filing of nomination was on 24.3.2005. The petitioner

filed nomination on 23.3.2005. Admittedly, the petitioner was in arrears of tax. Hence, she deposited tax on 24.3.2005. The voting took place and the petitioner was declared elected.

Respondent no.4 filed application under Section 16 of the Bombay Village Panchayat Act, 1959 (hereinafter referred to as "the Act") before respondent no.2 – Additional Collector claiming that the appellant is disqualified under the provisions of Section 14 (h) of the Act. Respondent no.2, after hearing both the sides, by order 20.2.2006 allowed the application of respondent no.4 and the appellant was declared disqualified under the provisions of Section 14 (h) of the Act.

On 3.3.2006 the appellant obtained stay to the order from the Collector by filing appeal before respondent no.1 Additional Commissioner. The Additional Commissioner, who disposed of this appeal by an order dated 19.5.2006 was pleased to dismiss the appeal.

The appellant filed Writ Petition No.2673/2006 challenging the aforesaid order of Commissioner on 30.5.2006 and on the same day interim order of stay to the orders of the Collector and Commissioner was obtained. This ad interim order which was granted by the learned Single Judge on 30.5.2006 was in force till 7.12.2006. On 7.12.2996 after hearing both sides, learned Signal Judge of this Court was pleased to issue Rule in the petition, however, interim relief was discontinued.

The appellant preferred this Letters Patent Appeal challenging the aforesaid order of the learned Single Judge and the Division Bench on 12/12/2006 granted ad-interim relief in terms of prayer clause (a) (i) i.e. stay to the Collector's order. This interim order was passed by the Division Bench is in force till today; consequently the appellant is working as member of said Gram Panchayat.

In the facts and circumstances mentioned

above, though the Collector disqualified the appellant under Section 14 (h) of the Act from 20.2.2006, the same order has not given any effect till today. The appellant's writ petition challenging the orders of the Collector and Commissioner is pending before the learned Single Judge. The refusal of interim relief will make appellant's writ petition infructuous. The substantial justice can be done by requesting the learned Single Judge to hear and dispose of appellant's writ petition at an early date and staying the Collector's order during the pendency of writ petition. Learned counsel for the respective parties agree for this arrangement and, therefore, we have not gone into the merits of the appeal.

In view of the above, we dispose of the Letters Patent Appeal by passing the following order:-

Counsel for the respective parties will jointly apply to the learned Single Judge for expeditious hearing of the Writ Petition No.2673/2006. If such application is made, learned Single Judge will consider the same and

pass appropriate order. During pendency and final disposal of writ petition, the Collector's order dated 20.2.2006 as confirmed by the Commissioner on 19.5.2006 shall remain stayed. There shall be no order as to costs.

Letters Patent Appeal is disposed of accordingly.

JUDGE JUDGE

A.